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NOMINATION OF DON M. NEWMAN

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON

NOMINATION OF

DON M. NEWMAN TO BE UNDER SECRETARY OF HEALTH AND HUMAN SERVICES

MARCH 13, 1986

Printed for the use of the Committee on Finance

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NOMINATION OF DON M. NEWMAN TO BE UNDER SECRETARY OF HEALTH AND HUMAN SERVICES

THURSDAY, MARCH 13, 1986

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The committee met, pursuant to notice, at 10:10 a.m. in room SD–215, Dirksen Senate Office Building, Hon. David Durenberger presiding.

Present: Senators Durenberger and Baucus.

Also present: Senator Dan Quayle; Congressmen John Hiler, Elwood Hillis, John T. Myers, Pete J. Visclosky, and Andrew Jacobs, Jr.

[The press release announcing the hearing, and a biographical sketch and an opening statement of Don M. Newman, and the opening statement of Senator Bob Dole follows:]

[Press Release No. 86–010]

FINANCE COMMITTEE SETS NOMINATION HEARING FOR DON M. NEWMAN

The Senate Committee on Finance has scheduled a March 13 hearing to review the nomination of Don M. Newman to be Under Secretary of the Department of Health and Human Services, Chairman Bob Packwood (R-Oregon) announced today.

The nomination hearing is scheduled to begin at 10 a.m., Thursday, March 13, 1986, in Room SD–215 of the Dirksen Senate Office Building in Washington.

Senator Packwood said Senator David Durenberger (R-Minnesota), Chairman of the Committee's Subcommittee on Health, would preside at the Newman hearing.

Mr. Newman, 62 is a native of Chicago and currently is Principal Deputy Assistant to the Secretary of HHS. He previously was Director of the State of Indiana's Washington office for 13 years. Before 1973, he was owner and operator of Newman's Pharmacy in Mishawaka, Indiana, and Jefferson Medical Arts Pharmacy in South Bend, Indiana.

Mr. Newman earned a bachelor's degree in pharmacology at Purdue University, a master's in business administration at the University of Indiana and a juris doctorem from Georgetown University.

Outline of Information Requested of Nominees

I. BIOGRAPHICAL

1.	Name:	Don Melvin Newman
2.	Address:	116 Duddington Place, S.E. Washington, D.C. 20003
3.	Date and Place of birth:	July 31, 1923 Chicago, Illinois
4.	Martial status:	Married Mary Louise Strait, Columbus, Ohio January 23, 1945. We have been married 41 years.
5.	Names and ages of children:	Barbara Lee Martin, Age 40 Kathryn Louise Grieser, Age 35
6.	Education:	B.S. in Pharmacy, Purdue University 1947; Interrupted with 30-month hitch in Army Air Corps flying B-17's; M.S.B.A. Indiana University 1972; J.D. Georgetown University 1979
7.	Employment record:	Worked as pharmacist in Kellog's Pharmacy, New Carlisle, Indiana 1947-1948; pharmacist-manager Buschbaum Pharmacy, South Bend, Indiana 1948-1952; pharmacist at Rex Pharmacy, South Bend, Indiana 1952-1953; pharmacist-manager at Childress Pharmacy, Mishawaka, Indiana 1953-1955; owner-operator Newman's Pharmacy, Mishawaka, Indiana 1955-1973; owner-operator Jefferson Medical Arts Pharmacy, South Bend, Indiana 1960-1964; Indiana Washington Office Director, Washington, D.C. 1973-1985; Acting Under Secretary, Department of Health and Human Services 1986 - present.
8.	Government experience:	Penn Harrison-Madison School Board in Indiana, 1964-1968; St. Joseph Co. Airport Authority 1960-1964; Mishawaka, Indiana Airport Authority 1968-1970; Director, Indiana Washington Office, Washington, D.C. 1973-1985, Acting Under Secretary, Department of Health and Human Services 1986 - present.

9. Memberships:	Past President, St. Joseph County Pharmaceutical Association; Past Chairman, Indiana Pharmaceutical Association Government Affairs Committee; South Bend-Mishawaka Chamber of Commerce; Mishawaka Futures; Indiana Pharmaceutical Association; American Pharmaceutical Association; D.C. Bar Assocation; Supreme Court Bar Association; Phi Kappa Psi Fraternity; Kappa Psi Honorary Fraternity; Free and Accepted Masons; Scottish Rite; Shriner; Red Cross; Meals on Wheels; United Way; Mishawaka Toastmasters; Past Chairman, Washington Representatives; Indiana Society; South Bend Symphony; Demolay Advisors; Campaign Chairman, Kelley for County Commissioner, 1968
10. Political affiliations and activities:	Was unsuccessful Republican Congresssional Candidate in Indiana's Third District in 1970 and 1972; Precinct Committeeman 1971. Have supported Republican National, State and local candidates in elections since 1968. National Chairman, Pharmacists for Reagan/Bush 1984.
11. Honors and Awards:	Ellis D. Verinck Award for Scholarship and Athletics 1941, Riley High School; Glen Jenkins Award for Outstanding Scholar in Purdue Freshman Pharmacy Class 1942; Outstanding Pharmacist, State of Indiana 1970; Distinguished Alumni Award, Indiana University, South Bend Alumni Association 1976; Sagamore of the Wabash (Twice: Indiana's highest award).

STATEMENT OF DON N. NEWMAN
UNDER SECRETARY-DESIGNATE
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
BEFORE
SENATE FINANCE COMMITTEE

MARCH 13, 1986

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, IT IS AN HONOR FOR ME TO APPEAR BEFORE YOU AS THE NOMINEE FOR UNDER SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES. IT IS A GREAT PRIVILEGE TO BE NOMINATED BY PRESIDENT REAGAN TO JOIN MY LONG-TIME FRIEND AND ASSOCIATE, SECRETARY OTIS R. BOWEN, AT A DEPARTMENT WHOSE MISSION IN THE FEDERAL GOVERNMENT IS SECOND TO NONE IN ITS VITAL RELATIONSHIP AND IMPACT ON THE DAILY LIVES OF THE AMERICAN PEOPLE.

I REALIZE THE UNDER SECRETARY SHARES THE SECRETARY'S RESPONSIBILITIES AND DUTIES IN WHATEVER WAY THE SECRETARY MAY WISH. IDEALLY, I WILL BE CALLED UPON TO BE AN INTERNAL MANAGER FREEING THE SECRETARY FOR THE NUMEROUS CONGRESSIONAL, WHITE HOUSE AND PUBLIC CONTACTS THAT PLACE HEAVY DEMANDS ON HIM.

MY SHORT TENURE THUS FAR AT HHS HAS MADE ME ACUTELY AWARE OF THE NEVER-ENDING QUEUE OF ISSUES IN SEARCH OF DECISION LINING UP AT THE SECRETARY'S DOOR. I HAVE ALSO SEEN THAT THE TRADITIONAL MANAGEMENT PROBLEMS ARE ALL THERE TOO: ATTRACTING AND HOLDING FIRST-RATE PEOPLE, ADJUSTING THE ORGANIZATION TO FIT CHANGING CIRCUMSTANCES, DEALING WITH ISSUES THAT INVOLVE OTHER CABINET OFFICERS AND AGENCY HEADS, LONG-RANGE PLANNING, SHORT-RANGE PLANNING, DECIDING ON THE TOUGH ISSUES OF RESOURCE ALLOCATION AMONG INTENSELY

COMPETITIVE CLAIMANTS, AND MANY OTHERS. SOME OF THESE, THE SECRETARY CAN DELEGATE TO OTHERS, BUT MOST DIFFICULT ISSUES WIND UP ON HIS DESK. IT WILL BE MY GOAL, IF CONFIRMED, AND WITH THE SECRETARY'S BLESSING, TO MAKE SURE THE PRESSURES OF DAY-TO-DAY OPERATIONS AND SHORT DEADLINES WILL NOT DRIVE OUT LONG-RANGE PLANNING OR THAT "~~THE~~ URGENT WILL NOT BECOME THE DEADLY ENEMY OF THE IMPORTANT".

THE SECRETARY HAS AN ENORMOUSLY DIFFICULT AND IMPORTANT JOB. ONE OF HIS MOST SIGNIFICANT ROLES IS TO BE THE ADVOCATE AND SPOKESMAN BEFORE CONGRESS AND THE PUBLIC FOR THE ADMINISTRATION'S PROGRAMS IN HEALTH AND SOCIAL SERVICES. SO THAT HE CAN JOIN YOU IN MAKING RESPONSIBLE NATIONAL PUBLIC POLICY, HE WILL NEED AN EFFECTIVE AND TRUSTED LEADERSHIP TEAM AT THE DEPARTMENT.

I PLEDGE TO YOU THE FULLEST MEASURE OF DEVOTION AND EFFORT TO THE JOB THAT THE PRESIDENT, THE SECRETARY, AND THE DISTINGUISHED UNITED STATES SENATE AND HOUSE WILL EXPECT OF ME.

MR. CHAIRMAN, I WOULD BE HAPPY TO ANSWER YOUR QUESTIONS NOW AND FOR THE RECORD, AS MAY BE REQUIRED.

STATEMENT OF SENATOR BOB DOLE

Thursday, March 13, 1986

Nomination of Don M. Newman

Mr. Chairman, Mr. Don Newman will be an excellent and welcome addition to the Department of Health and Human Services. In addition to his outstanding credentials as a pharmacist and an attorney, he has previously worked with Secretary Bowen as the Indiana Washington Office Director when the Secretary was governor of the State of Indiana. This combination of knowledge, experience, and the existence of a tested working relationship with the Secretary seems, to this Senator, to be a formula for success.

Mr. Newman, I am glad to have this opportunity to congratulate you on your solid record of achievement. I have every confidence that you will be a valuable undersecretary of the Department of Health and Human Services and a credit to this administration. We are indeed fortunate.

Senator DURENBERGER. The hearing will come to order. Today we are making a hearing of the Senate Finance Committee on the nomination of Mr. Don M. Newman to be Under Secretary of the Department of Health and Human Services.

We are pleased to have the opportunity to do that, and I am pleased to have the privilege of chairing the hearing in the absence of the chairman of the committee who is reforming the Nation's tax system somewhere right now. And I am particularly pleased to have our colleague, Dan Quayle, here and to have at least half of the Indiana congressional delegation here with us. [Laughter.]

It has been suggested to me that we could abbreviate our stay here if we had all of you rise, take an oath and swear that this is the kind of guy we need for the job; you could forgo your statements. However, this is an unusual situation, and, Don, you are to be complimented by the presence here of people for whom we have so much respect.

So as we learn to acquire that respect for you, the kind that they already obviously have for you—their presence indicates that they have for you—I think you should be complimented, particularly with our colleague, Dan Quayle, whose interest in health policy issues we are all quite aware of.

I presume that you and the Secretary of HHS and others have had some substantial influence on his thinking, and will continue to, and that he will influence yours as well. But, Danny, it is a real pleasure to hear you, or see you here today.

And, Max, do you want to make any comments?

Senator BAUCUS. No, Mr. Chairman.

Senator DURENBERGER. Let me begin with you, Dan, and we will go to your colleagues.

STATEMENT OF HON. DAN QUAYLE, A U.S. SENATOR FROM THE STATE OF INDIANA

Senator QUAYLE. Thank you very much, Mr. Chairman, Senator Baucus.

Mr. Chairman, you are absolutely right, that we are here in a strong force today—almost half of the delegation; not quite—to support somebody that we have grown to not only respect but really enjoy working with.

Don Newman, whose background has been in the State government serving our Governors here in Indiana, he is from South Bend, IN, graduated from Purdue University, the pharmaceutical school there, all the right things for a good old Indiana boy to come out here and do well in Washington. And just a few months ago, in December, we introduced to this committee another Indiana boy, Doc Bowen, who had served as the Governor of our great State. And now it is our real privilege to introduce to you Don Newman who will go over there and be a very good working partner with Doc Bowen.

When you look at trying to put a deputy in, you have got to have somebody who can get things done, carry out the orders from the boss, and I can assure you that Don Newman has done that. He is a tremendous administrator. He has got a health background, and a good government background. And I think I will abide by the

House rules today and keep my statement very brief because they might want to be like Senators today and speak on and on and on since they are over here. And I will, therefore, Mr. Chairman, recommend very, very strongly a good friend and one who has earned a lot of respect from all of us, Don Newman, for your, hopefully, unanimous and favorable consideration and ask that my statement be inserted in the record.

Senator DURENBERGER. Dan, thank you.

I am inclined—I don't know how long any of you folks have been here—to go to Andy, not because he is in the majority over there, but because he has been up until this session my counterpart on the Health Subcommittee of Ways and Means, and I have got a lot of respect for him in that regard. So if you don't mind my starting with Congressman Jacobs, then the rest of you can take it in whatever order you need to.

Andy?

[The prepared written statement of Senator Quayle follows:]

STATEMENT OF U.S. SENATOR DAN QUAYLE (R-IN)
BEFORE THE SENATE FINANCE COMMITTEE
ON THE NOMINATION OF DON M. NEWMAN
TO BE UNDERSECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
March 13, 1986

It is with a great deal of personal pleasure and pride that I introduce to the members of this distinguished panel Don E. Newman, the President's choice to fill the post of Undersecretary for the Department of Health and Human Services.

I am proud to say that Don is a native Hoosier who I believe will serve the Department of Health and Human Services as capably, conscientiously and constructively as he served his home State for over a decade during his tenure under both then-Governor, now HHS Secretary Bowen and Governor Orr as Director of Indiana's Washington office.

I have known Don for many years and can testify to his integrity, compassion, respect for our system of government and his competence--all of which are prerequisites for a post as demanding as that of Undersecretary of such an enormous and complex Federal agency. I know that Secretary Bowen very strongly shares this view and together I think these two outstanding individuals will provide the leadership necessary to guide the Department through some of the most difficult challenges it has ever faced in the weeks and months ahead. Don's years of experience in Washington in combination with his legal, business and pharmacy background will be an enormous asset to the Department.

In sum, I believe that Don is an outstanding citizen. He has devoted much of his life to public service and I understand is due to receive the Hubert H. Humphrey Award for the pharmacist who has contributed the most to the community in terms of public service in government this week-end from the American Pharmaceutical Association.

Mr. Chairman, I urge you and the members of the Finance committee to approve Don Newman's nomination. I am confident that the members of this Committee will support his nomination as completely and expeditiously as they did the Secretary's.

# # #

STATEMENT OF HON. ANDREW JACOBS, JR., A U.S. SENATOR FROM THE STATE OF INDIANA

Congressman JACOBS. Thank you, Mr. Chairman.

In case the record didn't catch it, Congressman Myers said that I am their elder. [Laughter.]

And I suppose that may be or may not be true. In politics, everybody is, certainly under 35, old enough to be a Senator but not much older.

I am pleased to say a kind word about Don Newman. He has been the liaison for the State government of Indiana, essentially with the Federal Government here in Washington, but probably more specifically with the Indiana congressional delegation, both the Senate and the House. And I will tell you, if I had 16 cents for every time I have heard a Representative or a Senator complain because someone in the bureauracy would not return a call or would not respond, I expect I would be ready to retire now; I would be a wealthy person.

This fellow will respond. He has already been warmed up, more than in the bullpen. He has been on the farm league, I guess, Indiana. And he is prepared to do the job at hand. And, besides, I just cannot imagine Dr. Bowen getting along exactly right without Don at his side. So I enthusiastically endorse the nomination. And I hope and am confident that the Senate will see fit to confirm it.

As far as the House rules on limitation of remarks and the Senate rules, what my father calls free and unlimited coinage of words, I think I have found that, generally speaking, politicians are generally speaking, whether they are in the House or in the Senate. And I thank you for this opportunity to appear. [Laughter.]

Senator DURENBERGER. Thank you, Andy.

John Myers, since you were the first to blow on Andy's ear, why don't you——[Laughter.]

Do you want to be next?

STATEMENT OF HON. JOHN T. MYERS, A U.S. CONGRESSMAN FROM THE STATE OF INDIANA

Congressman MYERS. Thank you very much, Mr. Chairman. I don't think you want to hear what I said, but I will share it with you. Max used to be with us, Senator Baucus. He said that we were old enough to be in the Senate, and I remarked, yes, but smart enough not to be. [Laughter.]

Mr. NEWMAN. I hope that came out right. [Laughter.]

Congressman MYERS. Other than that, Don, do you want me to continue? [Laughter.]

Mr. NEWMAN. Why don't you call on somebody else?

Congressman MYERS. Do you want me to continue, Don?

Mr. NEWMAN. It's all over.

Congressman MYERS. Thank you for giving us the opportunity here to appear on Don's behalf——

Mr. NEWMAN. Thank you very much.

Congressman MYERS [continuing]. Notwithstanding some remarks that we might make. But it isn't often we get a swing back. I just spent the last 2 days over here in conferences with what we consider to be the other body, and this morning the starter over at

the trolley said, You back again? And I assured him I wasn't eyeing anybody's seat over here.

Nevertheless, it is a pleasure to be here this morning and to appear with Don Newman. I first met Don a great many years ago when we both were candidates for Congress, and twice we shared that distinction, being candidates for Congress. He picked the wrong opponent and the wrong year, and I was fortunate enough to pick both the right year and the right opponent.

But Don is imminently qualified. He is a businessman, has been a businessman. He is a pharmacist. He is an attorney. He has all the experience in the State government, as Andy has told you. He has worked with Dr. Bowen when he was Governor for 8 years. He has worked with him since that time. They have been a partnership here, a working team. And it is a real pleasure to see someone who not only is a person who will do his job but also is qualified. And this is the reason we are all here today. It is not because we have to be but because we want to be, because he is really well qualified for this job.

And as Andy said, he is the kind of person who understands the system because he has been in Washington running the Indiana office since 1973. So he knows how to work with us, which is very, very important in the position for which he is being nominated. So it is a pleasure to recommend for your serious consideration Don Newman for this very important job. Thank you for giving us the opportunity to be here today.

Senator DURENBERGER. Thank you.

Bud, would you like to be next?

Congressman HILLIS. Well, let me defer to my colleague, John Hiler, since he is technically Don's representative, and then I will follow up later.

Senator DURENBERGER. All right, John. Thank you very much.

STATEMENT OF HON. JOHN PATRICK HILER, A U.S. CONGRESSMAN FROM THE STATE OF INDIANA

Congressman HILER. I thank my colleague for yielding, and thank you, Senator, for allowing us to appear before you today.

I would make one slight correction to our junior Senator's remarks. Don Newman is from Mishawaka, IN. [Laughter.]

Senator QUAYLE. It is all the same.

Congressman HILER. Well, Senator, you are up for election this year, and I wouldn't say that in Mishawaka. [Laughter.]

Senator DURENBERGER. Strike that part of the record. [Laughter.]

Senator QUAYLE. I hope that record will be stricken. [Laughter.]

Senator DURENBERGER. We will admit your written statement in the record, Dan, but omit everything else. [Laughter.]

Congressman HILER. But this is certainly a unique opportunity for me. I not only have the opportunity to serve as the Congressman for Don Newman, but also the Congressman for Secretary Bowen, whose home is also in my district. And I think that one of the key elements to insure that Secretary Bowen does the kind of job that we in Indiana know that he will be able to do is for Secretary Bowen to have someone who he trusts a great deal in the Under Secretary position.

I can imagine no one that the Secretary trusts more than Don Newman who he tapped some 13 years ago to be the Governor's personal representative in Washington, DC.

Don Newman is an insider in Washington, without being an insider, and he is an outsider without being an outsider. And I think that will make him uniquely qualified to be the Under Secretary.

He also flies. And I am not sure whether we have need for a flying Under Secretary, but if he was ever called upon he would be able to take up a single-engine plane and fly it across the country in all sorts of weather. And I think his experience there will serve him well as he takes on the difficult decisions over at HHS. I recommend Don Newman highly to you and think that he will do a tremendous job, not only for Secretary Bowen but also for the country.

Senator DURENBERGER. All right. John, thank you very much. Bud.

STATEMENT OF HON. ELWOOD HILLIS, A U.S. CONGRESSMAN FROM THE STATE OF INDIANA

Congressman HILLIS. Mr. Chairman, thank you.

I am not sure I can add a lot to what has been said. I have always looked upon Don as a close personal friend. I, too, met him under the same circumstances that John Myers expressed, that we were candidates for a position in Congress. I have known him ever since, and since the time particularly that he has been down here in Washington, first, as the Governor's representative and now in the present position. I not only look upon Don as a friend but as one of the most able people that I have known and a person who is imminently qualified for the position.

I would say that he is a person of great integrity and moral character and fits the bill for this job in every way. I don't know that you could find a better designee and appointee for the position than Don Newman, and certainly his relationship with the Secretary is excellent and they will make a great team. I am just happy to be here and endorse him this morning, Mr. Chairman.

Senator DURENBERGER. Thank you. We appreciate your being here. Peter.

STATEMENT OF HON. PETER J. VISCLOSKY, A U.S. CONGRESSMAN FROM THE STATE OF INDIANA

Congressman VISCLOSKY. Mr. Chairman, thank you very much for the opportunity to present testimony on behalf of Mr. Newman. It is my pleasure to do so. Don graduated from two of the universities I happened to graduate from. I won't hold Purdue against him. [Laughter.]

I have had the privilege of knowing Mr. Newman from two perspectives. I was on the staff with Congressman Adam Benjamin from the First District from 1977 until 1982, and unfailingly Don Newman was a gentleman. He acted to represent his State in as bipartisan and nonpolitical a fashion as possible. He always conducted himself as a professional, and that relationship has continued in my capacity as a Member. I would endorse his candidacy before you today without reservation.

Senator DURENBERGER. Thank you very much.

I have a statement from Dick Lugar who is tied up right now, which will be, without objection, made part of the record, which now makes a majority of the delegation that at least is on record. And I am sure the whole delegation in one form or another will be part of this.

[The prepared written statement of Senator Lugar follows:]

Richard G Lugar

Introduction on Thursday, March 13, 1986, by Richard G. Lugar to the Senate Finance Committee of Don M. Newman, Nominee to be Under Secretary for the Department of Health and Human Services.

Mr. Chairman, it is an honor and a privilege today to introduce to this distinguished committee, Don M. Newman, nominee for Under Secretary for the Department of Health and Human Services.

I have known Don for many years and am impressed by his strong background and many accomplishments. He received his Bachelor of Science, Pharmacy, from Purdue University in 1947 and a Masters in Business Administration from Indiana University in 1972. In 1979 Mr. Newman received his Juris Doctorem from Georgetown University.

Mr. Newman was appointed Director of the Indiana Washington Office by then Governor Otis R. Bowen, M.D. in 1973 where he has worked closely with me and the rest of the Indiana Congressional Delegation, the Administration, many Federal Agencies, and Governor for 13 distinguished years. For the last several months he has served as Principal Deputy Assistant to the Secretary of H.H.S.

Mr. Chairman, Mr. Newman has exhibited dedication to the health field and politics. His professional credentials are impeccable. But is also important to note that he is well liked and respected by all who know him, personally as well as professionally.

Mr. Chairman, it is my privilege to introduce him to the committee, and to urge your support for his confirmation.

Senator DURENBERGER. Don, I would like to note for the record that the committee has reviewed Mr. Newman's financial disclosure forms and the material he has filed with the Office of Government Ethics, the letter from the Director of the Office of Government Ethics approving Mr. Newman's compliance with the Ethics in Government Act will be made part of today's hearing record.

And before I introduce you I would like to introduce your wife, Mary Louise. Mary Louise, we are sure proud that you are here today for this occasion, and we look forward to using your family, in the larger sense, as Under Secretary of HHS.

Now, Don, do you have a statement you would like to make?

I want to thank you all for coming.

[The letter from the Director of the Office of Government Ethics follows:]

United States of America
Office of Government Ethics

Office of Personnel Management
P.O. Box 14108
Washington, D.C. 20044

FEB 19 1985

Honorable Robert Packwood
Chairman, Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Don M. Newman, who has been nominated by President Reagan for the position of Under Secretary of Health and Human Services.

We have reviewed the report and have also obtained advice from the Department of Health and Human Services concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Newman is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

CON 1324-0
March 1985

STATEMENT OF DON NEWMAN, NOMINEE TO BE UNDER SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. NEWMAN. Thank you, Mr. Chairman, and Senator Baucus. My dad urged me to quit when you're ahead. I feel as if I should just say "thank you" and stand up and allow the committee to proceed.

I do have a short statement that I would like to enter for the record.

It is an honor for me to appear before you as the nominee for Under Secretary of the Department of Health and Human Services. It is a great privilege to be nominated by President Reagan to join my long-time friend and associate, Secretary Otis R. Bowen, MD, at a Department whose mission in the Federal Government is second to none in its vital relationship and impact on the daily lives of the American people.

I realize that the Under Secretary shares the Secretary's responsibilities and duties in whatever way the Secretary may wish. Ideally, I will be called upon to be an internal manager freeing the Secretary for the numerous congressional, White House, and public contacts that place heavy burdens on him.

My short tenure thus far at HHS has made me acutely aware of the never-ending queue of issues in search of decision lining up at the Secretary's door. I have also seen that the traditional management problems are all there too: attracting and holding first-rate people, adjusting the organization to fit changing circumstances, dealing with issues that involve other Cabinet officials and agency heads, long-range planning, short-range planning, deciding on the tough issues of resource allocation among intensely competitive interests, and many others.

Some of these the Secretary can delegate to others, but most difficult issues wind up on his desk. It will be my goal, if confirmed, and with the Secretary's blessing, to make sure the pressures of day-to-day operations and short deadlines will not drive out long-range planning or that urgent will not become the deadly enemy of the important.

The Secretary has an enormously difficult and important job. One of his most significant roles is to be the advocate and spokesman before Congress and the public for the Administration's programs in health and special services. So that he can join you in making responsible national public policy, he will need an effective and trusted leadership team at the Department.

I pledge to you the fullest measure of devotion and effort to the job that the President, the Secretary, and the distinguished U.S. Senate and House will expect of me.

Mr. Chairman, I would be happy to answer your questions now and for the record, as may be required.

Senator DURENBERGER. Thank you very much, Don.

Max, do you have any questions?

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Newman, I was struck by, I think, the introduction of Congressman Andy Jacobs when he said that you were a person who gets things done on time. That is a rare commodity in this town.

Since the time I have been on this committee it has also struck me that historically, unfortunately, HHS has been quite delinquent in preparing and publishing reports and studies on certain issues that the Congress has requested. But I found in the short time that I have known you that Congressman Jacobs is right, because since our meeting yesterday when I asked you various questions, you have responded. You have responded very quickly. In fact, I am very delighted to have received your letter already today in response to one of the matters we went over.

And I just hope that, based upon your experience in management and also the experience essentially in this area, that you can get HHS to respond on time, just as you personally have. It is a trait that is more needed here now. It is a trait that I think will help to not only make the Department more efficient but it will help increase the credibility and the confidence that the committee and the Congress has in the Agency.

And I am wondering if you could share with us what ideas you have for helping to get the reports and other studies in on time, and also what assurances you can give us that these reports will be completed on the date requested and on the date HHS indicates?

I realize that sometimes the Congress asks for too many studies or asks for too many reports, and that we somewhat cause the bureaucracy, and the paperwork and the red tape in all the agencies of the Government. But nevertheless if we live up to our part of the bargain and not ask for quite so many reports, but only ask for the relevant ones, the important ones, what assurance can you give us that HHS will live up to its obligation to get them done on time?

Mr. NEWMAN. Senator Baucus, Secretary Bowen was shocked a few weeks ago when he discovered that there are some 120 delinquent regulations, reports, and surveys in our Department that have aged up to 5 years and have been that delinquent.

He placed Chief of Staff Tom Burke, who is with us today, in charge of that project in order to get those out in an expeditious manner. Tom is attempting to do that within the next 120 days. It is a tremendous challenge. As you imply, events have overtaken some of those reports and surveys. It may well be that we will not get the 120 disposed of because some of them may now be nongermane. But we are going to make an effort, in the next 4 months, to address that backlog.

And you are absolutely right, there is a lethargy that is almost inherent in the system that we have to overcome.

The Secretary, Tom Burke, and I, are dedicated to that proposition.

Senator BAUCUS. Can you today give us your personal assurance that in the future when we ask for a study or report, when the Congress says that you, personally, will guarantee that it will be ready when it is supposed to be ready?

Mr. NEWMAN. One of the things that impressed me, Senator Baucus, when I was in law school was the underlying theory and philosophy of the law, that is, essentially the intent of Congress which underlies our law. It will be our mission to discharge the intent of Congress at the Department.

Senator BAUCUS. Can you give me your personal assurance?

Mr. NEWMAN. Yes, sir, I give you my personal assurance.

Senator BAUCUS. Thank you.

Second, I am very happy that you are from Indiana. I don't mean to cast any dispersions on more populace parts of our country, but for those of us further west of Washington, DC it makes a difference to us to have someone in your position who has an understanding of rural America and the rural issues in America.

I understand you come from a more rural part of Indiana and that is very helpful.

Too often, in my opinion, decisionmakers, people in Washington—it is the nature of our country—tend to come from more populace areas in the country, and those are the problems they better understand because that is where they were born and that is where they grew up and that is where they have been raised. But it is critical to us in the West, the Far West particularly—the Rocky Mountain West, which is the most sparsely populated part of our country—to have someone who literally understands the real issues.

I must say though that Rocky Mount West is even less dense, as you well know, than Indiana. I have looked at the square mileage of Indiana. Indiana has 36,000 square miles approximately. There are 10 congressional districts in Indiana. It comes out to approximately 3,600 square miles per congressional district on average.

We in Montana have approximately 150,000 square miles. We have two congressional districts. That comes out to approximately 75,000 square miles per congressional district. So we are about 20 times less densely populated than Indiana. So if you think of a hospital in Indiana, or a rural community not served by a rural hospital in Indiana, think of the average distance to the closest hospital, multiply that times 20, and that is how far away a rural hospital in Montana is from a person who lives in the Far West.

I just want you to keep in mind the problems of rural America as we develop Medicare regulations, as we develop hospital regulations, as we develop scholarships for physicians, particularly under the National Health Service Corps Scholarship Program, because the needs of rural America are critical.

It is particularly true because as we move to DRG's and move to deregulation there tends to be a tyranny of the majority. For example, DRG's basically calculate according to a theory that the same procedure should cost the same regardless of where it is in the country.

And I must say that some costs are higher in rural America than they are in the urban parts of the country. Treating all parts of the country the same may sound fair, but it often results in an adverse effect on rural communities. As we develop these programs it is critical that you keep that in mind.

Could you tell me your preliminary thoughts about what affirmative action HHS could take and should take to accommodate the special needs of rural America?

Mr. NEWMAN. Senator, you are absolutely accurate when you indicate that my perception of rural America certainly is different from the States that lie near the Rocky Mountains. After I had the opportunity to chat with you the other day, about what is rural, Indiana compared to rural Montana is certainly a vast difference

in the comparison of the States, even though I consider myself a rural resident in Osceola, IN, and the Secretary, himself, a rural resident of Bremen, IN, cities of 1,500 and 3,000 people.

Senator BAUCUS. I am speaking not only for Montana, but the Rocky Mountain States in general. I mean, eastern Washington, eastern Oregon, Idaho, Montana, the Dakotas, Utah, Nevada, parts of Colorado. I mean, it is the Rocky Mountain section of the country.

Mr. NEWMAN. Until we had the chance to chat about it the other day, it was not really brought home. And there is a vast difference between rural America on the east side of the Mississippi and the west side, and I would certainly agree with that.

We have attempted to address that issue, as you know, with our differentiation between hospitals in the rural areas versus the urban areas. That sensitivity will continue. I assure you that, sir.

Senator BAUCUS. Thank you very much. I wish you good luck.

Mr. NEWMAN. Thank you, Senator Baucus.

Senator DURENBERGER. Don, two questions that are suggested by questions of my colleague. I think you appropriately acknowledged one of the problems that maybe—I call them citified folks because I was born and raised and educated in a town of about 200 people, something like that, but every since then I have been living in some metropolitan area, so I guess I have to call myself citified. And that is true of a lot of Americans. You are included. I mean, you have been citified since at least 1973, even though you may come from a town of 2,000, and so forth. And you cannot help that. That is sort of where you come from.

But I thought your honest reply to Max's last set of questions might indicate—and knowing Doctor Bowen's record as a Governor and his involvement with the National Governors Association—might suggest that there would be more receptivity in HHS and maybe some influence in HHS on the rest of the administration to a bill that I am sure Max and I are both cosponsors of which would create a national commission on access to health care in America. I know we are all tired of commissions, and we are all tired of studies, and we are all tired of doing this sort of thing, but the reality is that Max has put his finger on the issue of the future. It is not the adequacy of financing, it is the misallocation of financing in this country. And that is an access issue, and it does not have anything to do with how much to pay for one DRG versus the other. It is whether or not some adequate level of services are going to be available, period, to all Americans.

And the geographic issue in this era of deregulation is going to be probably much more serious than the indigent issue. And the indigent issue is a real issue. We all know that. But at least, whether you are in downtown Gary or Chicago or the District Columbia, at least the darn hospital is there, and they literally are not going to let you die in the street.

But if you are, as Max points out, 90 miles from nowhere, or 190 miles from somewhere, that presents you with a different situation. If you are in a community that used to have an acute care hospital and it has now been converted to a nursing home, and you have got to go X miles now to the acute care hospital, that presents you with some problems, and the Nation also with a different set of re-

quired responses. And the whole notion of this national commission on access to health care is to just try to bring the citified folks and the other kind of folks together in a forum which hopefully would be useful to the Secretary.

Now maybe if the administration and the President himself, as a former Governor, is so dead set against national commissions, maybe we can persuade you to persuade the Secretary to task forcing some other things. Maybe you ought to give some thought to task forcing this issue of access in some way. But the access issue is real and it is a problem for public hospitals, it is a problem for big cities, but it is, I suspect, a greater problem for the constituency that Max Baucus represents, and each of us to a somewhat lesser degree represents, than it is just for the indigent.

So I would encourage you. I obviously do not seek a specific response here, but I would certainly use this occasion since the two people that usually show up for these hearings are the people that care the most and end up sort of carrying the ball on a lot of these issues. And there is no partisanship on the issue which we speak of.

I would certainly encourage you to communicate with the Secretary on that particular issue, and to do it fairly quickly and maybe take the lead again on an important issue that States are more sensitive to them than the National Government would be.

Mr. NEWMAN. Mr. Chairman, I think the country is most fortunate to have a physician who cares deeply about both the quality and the availability and accessibility of health care as the Secretary of HHS. Your thoughts are shared by the Secretary.

Senator DURENBERGER. Max.

Senator BAUCUS. Mr. Chairman, on that point I want to tell you what a good idea I think it is of the Secretary to have what I guess is the weekly radio program, "Housecall." And I hope they are working. I don't know if they are; I hope they are. And I encourage the Department to continue on creative, innovative ideas like that to help develop a certain national consciousness and an awareness of the kinds of directions our health policy should be moving toward. And I just want to commend the Department for that.

Mr. NEWMAN. Thank you, Senator Baucus. I was told that we received 800 letters the week after the first broadcast.

Senator DURENEERGER. The other question that I have is suggested by Max's question relative to studies. And while I recognize that there is this big red book around here that is just full of things that we have told the Secretary to do. I can understand why we get way behind. I want to register a concern and perhaps get a reaction to your definition of "overtaken by events" and the word "nongermane" which you used to describe some of the studies in the Department.

One in particular that you and I have discussed–and I have not had a chance to discuss it directly with Mr. Burke, but apparently it is on his list–is a study on relative value scale that is being done up at Harvard. And I think the view here is that depending on your interpretation of the policy of prospective reimbursement for physicians you might say that that study is nongermane, or you might say that events have overtaken it.

But inherent in that study and related studies on RVS is a lot of information. And my general view, for what it is worth, is that we do not need a whole lot of studies on where policy ought to be going. All you have got to do is read the New England Journal of Medicine, listen to Max Baucus make a speech, listen to the "Housecall." And a lot of policy suggestions are being stimulated in this country right now. It is just the matter of keeping ahead of them and pulling them together.

But in this new sort of market based consumer responsibility era that we have entered into, those of us who have to make public policy decisions, particularly in a deficit context, can very easily put a major crimp into the quality of health care by doing the wrong thing, you know, because we do not have the right information base under it.

And so to the degree I would say that some of these studies may give us information and give us a data base. I think it is terribly important to keep that effort going.

I just want to say to you that I feel blocked–I have felt blocked–by HCFA in my efforts to put a prospective pricing system on ambulatory surgery, which is something that I know in concept HHS has supported, but, in effect, they have blocked us from demonstrating any savings from moving this system to more realistically compensate and reduce the part B payments at the hospital level to conform more accurately with the real world.

So a lot of it is, well, we don't have the data. There is so much of that, we don't have the data thing out there. And so maybe what I am doing here is suggesting that as we go through the big red book, and we exhort people like Max and myself not to request too many more studies, we might want to try to pull our definition of studies and our definition of "events of overtaken" and our definition of "nongermane," try to pull that apart a little bit. And these are the policy things over here, and this is the data base to implement whatever policy you might choose, and then put a little more effort against the latter.

But I do not know whether you have had a chance to discuss with Tom the matter of the Harvard study or not, but if the rumors that we heard that it might be terminated were wrong, I hope they were all wrong rumors and that that sort of thing is still going on or maybe has been refined. Do you have any observations on that, Don, generally?

Mr. NEWMAN. Yes, sir, Mr. Chairman, one general and one specific. The specific is that the Harvard study will be maintained for its 3-year cycle. Generally, there will be no discontinuance or cessation of any regulation, report or survey without discussion with the Congress, which has requested such a study or survey.

Senator DURENBERGER. All right.

Well I think there is a sympathy here from both of us about the excess of studying. And that Max makes the point of timeliness in the context that if we ask it to do everything there ain't no such thing as a 25-hour day. And so I think we would be the first to say we have been too generous with our request and not generous enough with our resources and our own time in the past, and I hope you will correct that.

My last question relates to, only because I did not get a chance to discuss this with you when we met together in my office a couple of days ago, to the issue of peer review. And I don't know where you come from on that issue, where Indiana comes from on the issue of peer review. I think you know that I have strong feelings about the subject and currently, in this budgetary deficit environment which exists, concerns for the adequacy of the funding that may be provided in the new contract period that most of the peer review organizations are facing.

What I am talking about is the match between the requirements that we are laying on the individual PRO and the dollar resources that we are going to make available to those people to do the job.

So if you have any thoughts on that subject that you want to share with me now for the record, it might be helpful.

Mr. NEWMAN. I wonder if I may respond in writing to you on that subject, Mr. Chairman.

Senator DURENBERGER. All right.

Mr. NEWMAN. I will provide that for the record.

ADEQUACY OF PEER REVIEW ORGANIZATION FUNDING

At the outset, let me note that the FY 1987-1988 funding level for Peer Review Organizations (PRO) is $357 million. This is an increase of $10 million above the previous year's amount.

We feel confident that this level of funding will support all of the PRO quality review objectives, including the enhancements planned for FY 1987-1988. As you know, the Health Care Financing Administration plans to use experience from the first contract period to focus review efforts on areas which merit continued scrutiny and shift emphasis to quality of care issues during the second contract period.

The Office of Inspector General is performing financial audits of the 46 PRO contracts that are planned for renewal in 1986. These audits provide financial information on each audited PRO's allowable cost incurred during the first year of operation. The OIG audits of current PRO contracts indicate that the funding level should be an adequate amount for operations during the FY 1987-1988 contract period.

In addition, it should be noted that $16.8 million in PRO funding was sequestered due to the Gramm-Rudman-Hollings law. These funds were absorbed from unobligated funds available for initial PRO contracts.

Senator DURENBERGER. All right.

Max, do you have any other questions?

Senator BAUCUS. No, Mr. Chairman.

Senator DURENBERGER. I thank you for your patience with my questions. And, Don, I don't have any other questions. If we don't have any questions from staff on behalf of Senators to be presented—there may be some to be presented for the record—otherwise, I certainly speaking for our side of whatever aisle there is on this committee, am very pleased and very anxious as a matter of fact to recommend that the Senate consent to the President's nomination of you for the Office of Under Secretary. And, hopefully, we will do that as quickly and as expeditiously as possible.

If there are no other comments, the hearing is adjourned.

Mr. NEWMAN. Thank you, Mr. Chairman.

[Whereupon, at 10:48 a.m., the hearing was concluded.]

[The response of Dr. Newman follows:]

Senator Mitchell

QUESTIONS FOR UNDERSECRETARY NOMINEE DON M. NEWMAN
Senate Committee on Finance

1. Q: I am very concerned about a number of rural communities in Maine who have been unable to recruit and keep a physician. Specifically, the Bucksport Regional Health Center has been trying unsuccessfully for over two years to get a physician to go to that facility.

Apparently, the National Health Service Corps only designates 12 slots in all of New England. Mr. Newman, while I recognize that there is a surplus of physicians in urban centers in New England, such as Boston and Portland, there are many rural areas that find it extremely difficult to attract physicians.

A: I share your concern that there should be adequate levels of health care personnel in rural areas. The National Health Service Corps (NHSC) had placed a physician in the Bucksport Regional Health Center (BRHC) several years ago. In August, 1985, a family physician was hired by the BRHC to replace this NHCS physician, enabling the Center to maintain its staff of two family physicians.

2. Q: Are there physicians with National Health Service Corps obligations that have not been placed for the upcoming year?

A: All NHSC scholarship obligated physicians available to begin their service commitment from now through September 1986 have been assigned.

3. Q: Do you agree that only 12 slots is inadequate for the six New England States?

A: We recognize that the needs for physicians in all parts of the country, including New England, are greater than the NHSC is able to meet. Therefore, we have had to target our limited resources to those areas which have experienced the least success in recruiting and retaining physicians from the private sector. I would add, however, that the State of Maine has been assigned five of those 12 slots. They are in: Dover/Foxcroft; Presque Isle; Augusta; Eastport; and Princeton.

Senator Mitchell

4. Q: Is it possible to assign more slots to New England?

A: The assignment of NHSC health personnel across the country is intended to help solve the most critical shortage problems. We must give priority to the locations with the greatest health manpower shortages and the least likelihood of attracting private physicians. While New England does have shortages, and the NHSC has assigned personnel to the area, we believe private physicians can be attracted to practice in many of these locations. The NHSC is most willing to help communities like Bucksport with manpower shortage problems to find appropriate private physicians.

5. Q: What other avenues can be pursued to work with the people in Bucksport to get a physician to go there as soon as possible?

A: The NHSC advises me it would be delighted to work with the people at the BRHC in recruiting a private physician to meet the community's health care needs. The NHSC is well experienced in the best methods to identify and recruit physicians to work in clinics like the one in Bucksport.

Senator Mitchell

QUESTIONS FOR UNDERSECRETARY NOMINEE DON M. NEWMAN
Senate Committee on Finance

1. What criteria are used to determine whether or not a contractor is performing satisfactorily?

We evaluate all PROs on their success at meeting the specific individual objectives in their contract and the effective and efficient discharge of the review responsibilities required by statute. Of the 1000 possible points awarded under the evaluation, a PRO can earn a maximum of 500 points in the contract objective area. Each contract has a minimum of 8 objectives, 3 addressing problems with utilization and 5 with quality problems. Each objective addressed an identified problem with the delivery of care in the PRO area and required the PRO to take specific action to correct the problem. Points are awarded for the degree of attainment of the objective and for the specific intervention taken by the PRO to achieve the objective. Performance of required review activities, including admission review, validation and correct application of waiver of liability and intensified review receive 175 points. An additional 300 possible points are awarded for contract management. This includes among other things the PROs' identification of additional utilization and quality problems in the area, and the PROs' impact outside of its objectives. PROs must attain a score of at least 666 to be recommended for noncompetitive renewal.

2. Are sociological factors taken into account when making such a determination?

No, PROs are evaluated solely on the basis of compliance with the Social Security Act and the provisions of their contracts. However, when contracts were awarded, the contract objectives to be achieved were based on an analysis of local problems and patterns of medical practice.

3. Is quality review the primary goal of the PRO or is cost containment the real and primary goal of the program?

The Act refers to both quality and utilization control in defining PRO responsibilities. Under the provisions of the first PRO contracts, there was concern that PPS would result in unnecessary utilization such as unnecessary admissions or inappropriate transfers and PROs emphasized these areas. The scope of work for the next PRO contract cycle primarily focuses on quality of care concerns. This focus is accomplished by the use of required generic screens for the review of medical records and a much more focussed review plan.

4. Will HCFA open the bidding process in Maine so that other interested organizations may bid for the next PRO contract?

The statute clearly states that PRO contracts are renewable based on satisfactory performance. The evaluation of Health Care Review, Inc. of Rhode Island's performance as the Maine PRO will be completed by July 31, 1986. If the PRO's performance is not sufficient to justify a noncompetitive renewal, competitive bids will be solicited from all interested organizations under the provisions of the Federal Procurement Regulation.

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